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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,398	09/29/2005	John P.R. Hammerbeck	AP067-05	3278
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DAVID A. GUERRA INTERNATIONAL PATENT GROUP, LLC 2025 17TH AVENUE N.W. CALGARY, AB T2M 0S7 CANADA			EXAMINER ESTREMSKY, SHERRY LYNN	
			ART UNIT 3681	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/551,398

Applicant(s)

HAMMERBECK, JOHN P.R.

Examiner

Sherry L. Estremsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 22, 26 and 27 is/are rejected.
- 7) ☒ Claim(s) 8-21 and 23-25 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application
- ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 8-27 and 23-25 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-6 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, "a rotatable input element arranged for traversal of the traversable circuit" is indefinite because the traversable circuit was claimed in claim 1 as being "relative to the rotational output element", suggesting it is traversed by the output element. It is not clear if a second traversable circuit is being claimed, nor what interrelationship of the various elements is being claimed.

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In claim 22, it is not clear if "a rotational output element" is referring to the rotational output element claimed in claim 1, or if it is claiming a second rotational output element.

4. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, 4, 5(2,4), 7, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Moskob, U. S. Patent 6,453,772.

Moskob discloses an apparatus for providing a rotational output. The apparatus includes a rotational output element 15 (column 3, lines 21-24), a transfer element 10 providing a traversable circuit (provided with teeth 11) relative to the rotational output element 15, a constraint, housing part 6 with fixed pegs 18 and 19, arranged to constrain the transfer element 10 against rotation about its own axis but to allow eccentric oscillation of the transfer element 10 (column 3, lines 13-17 and 43-60), and an input drive 3/4 (column 2, lines 65-67). The input drive 3/4 is arranged to cause oscillation of the transfer element 10 and traversal thereof relative to the rotatable output element 15 to provide a rotatable output (column 3, lines 36-52). (claim 1)

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The input drive includes a rotatable input element 8 arranged for traversal of the traversable circuit relative to the transfer element 10.

(claim 2)

The transfer element 10 has a traversable inner circuit and the input and output elements 8 and 15 traverse the circuit.

(claim 4)

The apparatus includes a plurality of input elements 4, 3, and 8.

(claim 5)

The input drive includes a varying electromagnetic field drive.

(claim 7)

Moskob discloses a method of providing a rotation output comprising causing traversal of a rotational output element 15 relative to a traversable circuit of a transfer element 10 in which the transfer element 10 is constrained against rotation about its own axis but can oscillate eccentrically in which an input drive 3/4 causes oscillation of the transfer element 10 and hence traversal relative to the rotational output element 15 to provide a rotational output (column 3, lines 36-53)

(claim 26)

7. Claims 1, 2, 3, 5(2, 3), 7, 22, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Colgan, U. S. Patent 3,424,036.

Colgan discloses an apparatus for providing a rotational output. The apparatus includes a rotational output element 20 (including ring gear 36, column 2, line 59 and column 3, lines 29-33), a transfer element 30 providing a traversable circuit relative to the rotational output element

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20, a constraint, housing part 12A with fixed pins 32, arranged to constrain the transfer element 30 against rotation about its own axis but to allow eccentric oscillation of the transfer element 30 (column 3, lines 12-20), and an input drive 14 (column 2, line 59). The input drive 14 is arranged to cause oscillation of the transfer element 30 and traversal thereof relative to the rotatable output element 20 to provide a rotatable output (column 3, lines 34-55).
(claim 1)

The input drive 14 includes a rotatable input element 24 arranged for traversal of the traversable circuit relative to the transfer element 30 (the eccentric traverses the inner, circuitous surface of the transfer element 30 through bearing assembly 28).
(claim 2)

The transfer element 30 has an inner traversable circuit for traversal by the input element 24 and an outer traversable circuit for traversal by the output element 20 (portion 36).
(claim 3)

The apparatus includes a plurality of input elements 14, 24.
(claim 5)

The input drive includes a varying electromagnetic field drive or piezoelective drive or fluid impulse drive (column 2, line 71 to column 3, line 2).
(claim 7)

The transfer element 30 is traversable throughout an inner circumference of a rotational output element 36.
(claim 22)

Colgan discloses a method of providing a rotation output comprising causing traversal of a rotational output element 20 relative to a traversable circuit of a transfer element 30 in which the transfer element 30 is constrained against rotation about its own axis but can oscillate

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eccentrically in which an input drive 14 causes oscillation of the transfer element 30 and hence traversal relative to the rotational output element 20 to provide a rotational output (column 3, lines 34-55)
(claim 26)

Allowable Subject Matter

8. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U. S. Patent 3,530,742 (Sfreda) September 1970 - discloses an apparatus with a rotational input an output and variable ratio eccentric drive with a flexible coupling.

The following patents each disclose an apparatus having a rotatable output element, a transfer element constrained against rotation about its own axis but allowed eccentric oscillation, and an input drive:

U. S. Patent 5,080,638 (Osborn) January 1992

U. S. Patent 5,324,240 (Güttinger) June 1994

U. S. Patent 5,441,460 (Djudin) August 1995

U. S. Patent 5,876,298 (Kato et al.) March 1999

U. S. Patent 6,280,359 (Moskob) August 2001


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherry L. Estremsky whose telephone number is (571) 272-7090. The examiner can normally be reached on Monday and Thursday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on (571) 272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SLE


SHERRY ESTREMSKY
PRIMARY EXAMINER
AU3681 8-16-07